

Remarks

In the Office Action, the Examiner rejected claims 1 - 6, 8 - 12, 18 - 21, 23 - 26, and 30 - 40 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,880,864 (issued March 9, 1999; hereinafter "Williams"). Additionally, the Examiner rejected claims 7, 13 - 17, 22, 27 - 29, and 35 under 35 U.S.C. 103(a) as being unpatentable over Williams. The Applicant has amended claims 1, 4, 5, 7, 18, 21, 30 - 32, 35, and 36. The Applicant has also canceled claims 19, 20, 22, 23, and 37.

Claims 1 - 17

In claim 1, the Applicant recites a method of providing broadband communications over a hybrid fiber coaxial ("HFC") communication system. The method includes, among other things, providing the downstream voice video and data communications from the headend to the user gateway at a synchronous optical network ("SONET") transmission rate and providing the upstream voice video and data communications from the user gateway to the headend at the SONET transmission rate. The Applicant has amended claim 1 to incorporate language recited in claims 4 through 8. More specifically, the Applicant has amended claim 1 to recite that providing the upstream video communications from the user gateway to the headend includes using asynchronous transfer mode protocol, internet protocol, MPEG format, code division multiplexing, or combinations thereof. The Applicant has also amended claim 1 to recite that providing the downstream video communications from the headend to the user gateway includes using asynchronous transfer mode protocol, Internet protocol, MPEG format, code division multiplexing, or combinations thereof. As the Examiner states, "Williams differs from the claimed invention in that Williams fails to specifically teach ... using code division multiplexing."

The Examiner stated that the language recited in claim 7 of code division multiplexing "is very well-known in the art and Official Notice is taken that it is well known in the art of optical communication" in the Examiner's § 103 rejection. The Examiner further states that "[o]ne skilled in the art would have been motivated to employ code division multiplexing in the device of Williams in order multiple signal streams to be transmitted simultaneously. Therefore, it

would have been obvious to one skilled in the art at the time the invention was made to employ code division multiplexing in the device of Williams." The Applicant respectfully disagrees.

Official notice unsupported by documentary evidence should only be taken by the Examiner where the facts asserted be well-known, or to be common knowledge, in the art are capable of instant and unquestionable demonstration as being well-known. The Applicant maintains that the use of code division multiplexing within synchronous optical network ("SONET") transmissions is not well-known nor are they capable of instant and unquestionable demonstration as being well-known. Assertions of technical facts in the areas of esoteric technology, such as code division multiplexing in SONET transmissions, or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. MPEP § 2144.03. Accordingly, the Applicant demands proof that such technology exists in the prior art before conceding to the Examiner's rejection.

The Applicant maintains that claim 1 as amended by the language recited in claim 7 is novel and nonobvious in view of Williams and that which is known because, among other reasons, Williams does not teach that which the applicant claims and code division multiplexing with SONET transmissions was not well-known at the time of the invention. Accordingly, the Applicant believes claim 1 is in condition for allowance and respectfully requests such disposition. Claims 2 through 17 depend from independent claim 1 and inherit all of the novel and nonobvious features of the independent claim. For at least the reasons recited in claim 1, the Applicant believes claims 2 through 17 are also novel and nonobvious and respectfully requests such disposition.

Claims 18 – 29

Claim 18 recites a hybrid fiber coaxial communications system that includes, among other things, an optical to electrical conversion node configured to receive a first transmission from a broadband terminal and receive a second transmission over a coaxial communication link. Additionally, the hybrid fiber coaxial communication system includes the user gateway configured to receive the first transmission from the optical to electrical conversion node and generate the second transmission for transmission to the optical to electrical conversion node. Claim 18 has been amended to incorporate language recited in claims 19 - 23. More specifically,

claim 18 has been amended to state that the first transmission and the second transmission wherein the first transmission and the second transmission are SONET transmissions using asynchronous transfer mode protocol, internet protocol, MPEG format, code division multiplexing, time division multiplexing, or a combination thereof.

In rejecting claim 18, the Examiner recited the same arguments used in the rejection of claim 1. Additionally, the Examiner took Official Notice with respect to the first transmission and the second transmission being code division multiplexed for the same reasons cited in the Examiner's § 103 rejection of claim 7. The Applicant again maintains that the use of code division multiplexing within synchronous optical network ("SONET") transmissions is not well-known nor are they capable of instant and unquestionable demonstration as being well-known. For the reasons listed above, the Applicant demands proof that such technology exists in the prior art before conceding to the Examiner's rejection.

The Applicant maintains that claim 18 as amended by the language recited in claim 22 is novel and nonobvious in view of Williams and that which is known because, among other reasons, Williams does not teach that which the applicant claims and code division multiplexing with SONET transmissions was not well-known at the time of the invention. Accordingly, the Applicant believes claim 18 is in condition for allowance and respectfully requests such disposition. Claims 24 - 29 depend from independent claim 18 and inherit all of the novel and nonobvious features of the independent claim. For at least the reasons recited in claim 18, the Applicant believes claims 24 through 29 are also novel and nonobvious and respectfully requests such disposition.

Claims 30 - 40

In claim 30, the Applicant recites a user gateway configured to exchange voice video and data traffic between a headend and a call device configured for voice communication, a data device configured to display data information, and a video device configured to display video information. The user gateway includes, among other things, SONET transport means configured to exchange call traffic including the call, video traffic including the video channel, and data traffic including the requested data between the user gateway and the headend at a SONET transmission rate. The SONET transport means has been amended to incorporate

language recited in claims 33 through 37. More specifically, the SONET transport means has been amended to recite that it exchanges at least the video traffic between the user gateway and the headend using an asynchronous transport protocol, an internet protocol, code division multiple access multiplexing, time division multiple access multiplexing, MPEG compression format or a combination thereof.

In rejecting claim 30, the Examiner recited the same arguments used in the rejection of claim 1. Additionally, the Examiner took Official Notice with respect to the SONET transport means being configured to exchange the call traffic, video traffic, and data traffic between the user gateway and ahead and using code division multiple access multiplexing for the same reasons cited in the Examiner's § 103 rejection of claim 7. The Applicant again maintains that the use of code division multiplexing within synchronous optical network ("SONET") transmissions is not well-known nor are they capable of instant and unquestionable demonstration as being well-known. For the reasons listed above, the Applicant demands proof that such technology exists in the prior art before conceding to the Examiner's rejection.

The Applicant maintains that claim 30 as amended by the language recited in claim 35 is novel and nonobvious in view of Williams and that which is known because, among other reasons, Williams does not teach that which the applicant claims and code division multiplexing with SONET transmissions was not well-known at the time of the invention. Accordingly, the Applicant believes claim 30 is in condition for allowance and respectfully requests such disposition. Claims 31 - 36 and 38 - 40 depend from independent claim 30 and inherit all of the novel and nonobvious features of the independent claim. For at least the reasons recited in claim 30, the Applicant believes claims 31 - 36 and 38 - 40 are also novel and nonobvious and respectfully requests such disposition.

Based upon the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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